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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,981	10/15/2001	Raymond Anthony Joao	RJ220	4403

7590 11/21/2006

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EXAMINER
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FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/977,981

Applicant(s)

JOAO, RAYMOND ANTHONY

Examiner

Joseph A. Fischetti

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 41-60 is/are pending in the application.
- 4a) Of the above claim(s) 51,54,55,57,60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41-50,52,53,56,58 and 59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

Applicant's election without traverse of claims 41-50,52,53,56,58,59 in the reply filed on 9/9/06 is acknowledged. The restriction is made final.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 41-50,52,53,56,58,59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gebb in view of Fulcher et al.

Gebb discloses a computer-implemented method, comprising:  
entering or receiving information regarding a ticket request or a ticket option request for at least one of a ticket for a portion of an event (Gebb buyer input device 20 causes information to be entered re ticket request), processing the information regarding a ticket request or a ticket option request with a processing device (ticket system 30 processes the ticket request); generating at least one of a ticket availability message and a ticket option availability message with the processing device (system 30 posts tickets available for resale col. 8lines 3-7); and transmitting the at least one of a ticket availability message and a ticket option availability message to a communication device associated with an individual or used by an

individual (the posting of the availability of tickets by the system 30 on the network is read as the transmitting of the message).

However, Gebb does not disclose selling a ticket for portion of an event which remains after a start of the event and before a completion or a conclusion of the event and a ticket option for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event. But, Fulcher et al. discloses a system which uses an unused portion of a ticket and assigns a value for it Col. 18 line 39, and in the embodiment of "pay by space", the unused portion of the space to be resold to another. It would be an obvious modification to Gebb to provide an value of the unused portion of the tickets sold by the system 30 and use the system to resell the unused portion as taught by Fulcher et al., the motivation being the promotion of maximizing the use of a ticket to avoid waste.

Re Claim 42: Gebb discloses an input device 20 which receives the posting of available tickets and thus receives a response to the at least one of a ticket availability message and a ticket option availability message, wherein the response is transmitted from the communication device associated with an individual or used by an individual. The ticket server 60 processes the transaction regarding a purchase of the at least one of a ticket for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event and a ticket option for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event. The motivation for combining is herein repeated.

Re Claim 43. Gebb discloses a network device 40 transmitting information regarding the at least one of a ticket for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event and a ticket option for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event to the communication device associated with an individual or used by an individual (col. 8 line 60); and at least one of printing via a printer the at least one of a ticket for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event and a ticket option for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event and displaying via a display device information regarding the at least one of a ticket for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event and a ticket option for a portion of an event which remains after a start of the event and before a completion or a conclusion of the event (kiosk prints ticket col. 8, line 63.

Re claim 44: Gebb discloses payment database 116 effectuating a payment to an account associated with a seller of the ticket or the ticket option and effectuating a withdrawal from an account associated with the individual.

Re Claim 45. Gebb discloses a ticket.

Re claim 46: Gebb discloses ticket as alternatively "the right to sell an event ticket col.3 lines 33,34 which is an option.

Re Claims 47,48,49. OFFICIAL NOTICE is taken of the use of the Internet and the World Wide Web to effect communication and the use of a wireless device or a wireless telephone or PDA to communicate. The motivation for this analysis is the ease of data access using portable devices.

Re Claim 50: Gebb discloses a kiosk col. 8, line 63.

Re Claim 52: the teaching of Fulcher et al. of using an unused time slot for a space inherently must occur during the event in Gebb in that the space was reserved for a given period and in that given period the space is released. The motivation is herein repeated.

Re claim 53. (New) Gebb discloses the individual being located at will call which is at the venue of the event Col. 8 line 55.

Re claim 56: official notice is taken regarding the practice of upgrading during the event e.g. airline seats often are upgraded during flight when unused upgraded seats are present. The motivation for this the prevention of loss of unused assets.

Re Claim 58. The teaching of Fulcher et al. of using an unused portion inherently must occur during the event in Gebb in that the space was reserved for a given period and in that given period the space is released. The motivation is herein repeated. OFFICIAL Notice is taken of the use of the Internet and the World Wide


Art Unit: 3627

Web to effect communication and the use of a wireless device or a wireless telephone or PDA to communicate. The motivation for this analysis is the ease of data access using portable devices.

Re Claim 59: the teaching of Fulcher et al. of using an unused portion inherently must occur during the event in Gebb in that the space was reserved for a given period and in that given period the space is released. The motivation is herein repeated. Gebb discloses a kiosk col. 8, line 63.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number 571 272 6780.

  
JOSEPH A. FISCHETTI  
PRIMARY EXAMINER  
Joseph A. Fischetti  
Primary Examiner  
Art Unit 3627